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## Exploring the Meaning of Experiential Deaning

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# VERMONT LAW SCHOOL

Faculty Accepted Paper

## Exploring the Meaning of Experiential Deaning

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Vermont Law School Paper No. 2-17

## **Exploring the Meaning of Experiential Deaning**

Margaret Martin Barry,\* Robert D. Dinerstein,\*\* Phyllis Goldfarb,\*\*\* Peggy Maisel,\*\*\*\* and  
Linda H. Morton\*\*\*\*\*

### **Introduction**

On an autumn weekend in 2015, the authors gathered in Vermont to discuss the nature of our law school positions.<sup>1</sup> At the time, all of us were associate deans with responsibility for experiential education programs in our law schools. All of our positions, as then denominated, were fairly new, created within the past decade or less, and all of us were the inaugural holders of these positions. Our informal conversations over the past few years had highlighted the extent to which our positions were sui generis in our law schools. While each of us valued our unique platforms for advancing experiential education, we also identified the isolating aspects of uniqueness. From that realization came the impetus to convene as a group in a retreat-like setting to consider our shared work and our respective jobs.

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<sup>1</sup> Faith Rivers James, Associate Dean for Experiential Learning and Leadership at Elon University School of Law, also participated in the Vermont gathering of experiential deans.

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Our weekend retreat, organized by Margaret Barry, then Associate Dean for Experiential and Clinical Programs at Vermont Law School, gave us the opportunity to share our experiences and collective insights about the scope of our positions, the reasons we took them, and our assessments of whether the positions were developing as we had expected. As the first occupants of our jobs, we wanted to explore their possibilities and their realities, to consider—more fully than daily demands typically allow—what can be accomplished from our posts, what is needed to create and sustain these accomplishments, what challenges we encounter, and what might be needed to overcome these challenges. We wanted to explore whether we could surface shared problems and imagine potential solutions.

We found that we could. This insight was illuminating in itself. Despite significant differences in our institutional contexts, we experienced similar dilemmas and challenges, many of them growing out of uncertainty about our roles. This realization led us to hypothesize that although a variety of converging forces had generated a trend across law schools to appoint faculty administrators like us who would promote and oversee the law schools' experiential education mission, many law schools seemed to have little clarity about how holders of the position might advance that mission.

This article emerges from the central insight that our conversation revealed: at this early developmental stage for experiential dean positions, their structure, their authority, and their content are under-theorized. Law schools have done far more thinking about creating these positions than delineating their contours. The result is that holders of the positions must navigate their own institutional contexts in the process of inventing and negotiating the nature of their day-to-day work and the structure and content of their working relationships.

Once we named the broad issue of under-conceptualization, and the many subsidiary issues it generates, we felt we could begin to identify structures and processes that would help

experiential deans establish and accomplish important institutional goals. We wanted to help fill in some of the missing conceptual content of the work of the experiential dean. In the process, we hoped that we would all become more thoughtful and intentional administrators of experiential education and that law schools could become more thoughtful and intentional about designing, creating, and establishing expectations for the position of experiential dean.

We began considering the benefits that could follow from enlarging our conversation, and the various ways by which we might do so. We decided that one useful approach was to contact deans and directors of experiential education across the country to ask them the types of questions that we were asking each other during our weekend retreat. This might help us to determine if—as we suspected—our associate deans’ group was more broadly representative of experiential administrators in law schools across the country.<sup>2</sup> Therefore, we developed and distributed a survey instrument that inquired about the nature of the position of experiential director or dean, as experienced and understood by those who held these positions.

This article reports and analyzes the results of the survey. In sharing the information that the survey results reveal, we hope to help law school faculty and administrators frame more explicitly the role and content of experiential dean positions. Making these structural choices explicit requires understanding the value that experiential deans can add to legal education, their role in a law schools’ evolution and governance, the specific challenges that experiential deans confront, and approaches to addressing those challenges. In using our survey returns to develop these understandings, we extract lessons about how law schools can define, structure, and support the role of experiential dean.

In Part I of the article, we describe more fully our impetus for undertaking this project: a shared sense of the important development in legal education that the creation of the experiential dean post represents; the basis of the trend in the creation of these positions; and the need to deepen our understanding of the nature of, and prospects for, the role. Next we dive deeply into the survey results. Part II describes the structure and content of the experiential dean positions that our survey respondents currently occupy. This discussion is followed by the information we received from the surveys about what experiential deans are accomplishing and hoping to

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<sup>2</sup> We suspected that our experience might generalize, in part because we represent a range of law schools and experiential programs, varying widely in size, student bodies, resources, and rankings.

accomplish, and the difficulties and tensions they have encountered along the way. We conclude in Part III with our insights from the surveys about possible best practices for structuring, supporting, and sustaining these important positions.

## **I. The Current Focus on Experiential Education**

### **A. What is Experiential Education?**

Educational theorists are strong proponents of experiential education,<sup>3</sup> defined as “a process through which a learner constructs knowledge, skill and value from direct experience.”<sup>4</sup> While experiential learning is primarily an individual experience that involves “action, reflection, abstraction,” experiential *education* necessarily includes a transactive component between teacher and learner, one that also takes into account the “socio-political-economic elements in the learning environment.”<sup>5</sup> According to Best Practices for Legal Education, “Experiential education integrates theory and practice by combining academic inquiry with actual experience.”<sup>6</sup>

Experiential legal education not only identifies law as the subject matter of experiential education but adds the element of role-based learning. That is, experiential education in law includes placing students in one of the many roles that lawyers play in society—“litigator, counselor, mediator, transactional lawyer, legislative lawyer, public policy advocate.”<sup>7</sup> This role-based learning can occur in courses such as in-house clinics in which students represent real clients under the supervision of a faculty member. This learning also can occur in settings such as externships, in which students participate in real-life law practice, or in courses— such as trial

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<sup>3</sup> See Robert Dinerstein, *Experiential Legal Education: New Wine and New Bottles*, 44 SYLLABUS 2, 2 (Winter 2012-13) (observing that experiential education “has a distinguished history and lineage, and draws heavily on the theories and practices of John Dewey, David Kolb, Paulo Freire, and others”).

<sup>4</sup> Christian M. Itin, *Reasserting the Philosophy of Experiential Education as a Vehicle for Change in the 21<sup>st</sup> Century*, 22 J. EXPERIENTIAL ED. 91, 91 (Fall 1999), quoting Association for Experiential Education, AEE Definition of Experiential Education 1 (1994).

<sup>5</sup> *Id.* at 91-92 .

<sup>6</sup> *Id.* (quoting ROY STUCKEY AND OTHERS, BEST PRACTICES FOR LEGAL EDUCATION 165 (2007)).

<sup>7</sup> *Id.*

advocacy, interviewing and counseling, mediation, transactional skills, and negotiation—in which they engage in simulated lawyering activities designed to teach lawyering skills and values. Although experiential legal education can take other forms as well, these are its most prominent examples.

The Alliance for Experiential Learning in Law<sup>8</sup> attempts to capture the concept of experiential legal education in the following definition:

Experiential education is an active method of teaching that integrates theory and practice by combining academic inquiry with actual experience. It encompasses many methodologies in which educators purposefully engage with learners in direct experience and focused reflection in order to increase knowledge, develop skills, clarify values, and develop people’s capacity to contribute to their communities. Experiential education methodologies in legal education include both simulated practice experiences, in which students assume the role of a lawyer in a simulated setting, and supervised practice experiences, in which students assume the role of a lawyer, either in support of others or as a mentee or a student lawyer with a high level of direct responsibility as lead counsel or member of a lawyer team.<sup>9</sup> [Internal quotations omitted]

Recently, the American Bar Association’s (ABA’s) Section of Legal Education and Admissions to the Bar defined experiential courses as law clinics, field placements, and simulations. In addition to being “primarily experiential in nature,” an experiential course must (i) integrate doctrine, theory, skills, and legal ethics, and engage students in performance of one or more of the professional skills identified; (ii) develop the concepts underlying the professional skills being taught; (iii) provide multiple opportunities for performance; and (iv) provide opportunities for self-evaluation.<sup>10</sup> Thus, according to the ABA’s directives, experiential courses

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<sup>8</sup> Northeastern University School of Law convened the Alliance in 2011 to, among other things, “Develop a shared vision of ‘experiential education’ and offer best practices that can be utilized and adopted by law schools across the country.” <http://www.northeastern.edu/law/experience/leadership/alliance.html>. Legal educators and practitioners from over 113 law schools belong to the Alliance, which has sponsored three national symposia on experiential education, in 2012 (at Northeastern), 2014 (at Elon University School of Law), *id.*, and 2016 (at New York Law School), [http://www.nyls.edu/academics/office\\_of\\_clinical\\_and\\_experiential\\_learning/third-national-symposium-experiential-learning-law/](http://www.nyls.edu/academics/office_of_clinical_and_experiential_learning/third-national-symposium-experiential-learning-law/).

<sup>9</sup> Cynthia Adcock, et al., *A Glossary for Experiential Education in Law Schools: Report of the Working Group on Vocabulary and Collaboration in Experience the Future: Papers from the Second National Symposium on Experiential Education in Law*, 7 ELON L. REV.1, 15-16 (2015).

<sup>10</sup> ABA Standard 303(a) (3) (i)-(iv). Beyond this description, the term “experiential” is never defined by the ABA. Std. 303(a)(3) states that to satisfy the experiential requirement a course must be primarily experiential in nature (which seems tautological) and then have the characteristics/qualities mentioned in the text. So while the form of the

are those that integrate doctrine, theory, skills, and ethics by engaging students in—and enabling feedback and self-reflection on—live or simulated lawyering performances designed to develop their professional capacities.

## **B. Why Has Experiential Education in Law Become Important Now?**

### **1. Background**

“Experiential education” has become a convenient umbrella for the varied forms of clinical legal education—in-house clinics, field placements, cooperative learning experiences,<sup>11</sup> and simulation courses—that have developed on separate yet overlapping tracks over the past decades. Clinical legal education began emerging in law schools in the late 1960s. Spurred by funding and guidance from the Ford Foundation and the organization it created, the Council on Legal Education for Professional Responsibility (CLEPR), law schools started to create grant-funded programs designed to teach law students the skills they would need in law practice by assisting them in representing indigent or under-represented clients.<sup>12</sup>

While the legal academy was slow to integrate clinical legal education and clinical faculty into the mainstream curriculum, outside organizations such as the Carnegie Foundation and the ABA’s Section of Legal Education and Admissions to the Bar saw the value of this form of legal education, and began issuing elaborate reports that promoted it.<sup>13</sup> Not surprisingly, bar

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course—simulation, in-house clinic, or externship—is clearly identified, and the characteristics are clearly delineated, the word “experiential” is never otherwise defined.

<sup>11</sup> Co-operative legal education was pioneered by Northeastern University School of Law when it reopened in 1968-69. Northeastern’s Co-operative Legal Education Program requires students to participate in four quarters of full-time employment during their three years of study. See <http://www.northeastern.edu/law/experience/co-op/index.html>. Drexel University’s Thomas R. Kline School of Law, which opened in 2006, has also instituted a co-op program, building on its university’s prior experience in this form of education. See <http://drexel.edu/law/academics/kline-difference/co-op/>.

<sup>12</sup> See, e.g., Margaret Martin Barry, Jon C. Dubin, and Peter A. Joy, *Clinical Education for the Millennium: The Third Wave*, 7 CLIN. L. REV. 1, 12 et seq. (Fall 2000) (describing second wave of clinical legal education).

<sup>13</sup> William M. Sullivan, et al., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (The Carnegie Foundation for the Advancement of Teaching, 2007); American Bar Association Section of Legal Education and Admissions to the Bar, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap (1992). At approximately the same time as the Carnegie Foundation Report, and from within the world of clinical education, the Clinical Legal Education Association (CLEA) produced Roy Stuckey and Others, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP (2007). Subsequently, CLEA published BUILDING ON BEST PRACTICES: TRANSFORMING



associations and law school alumni also understood the critical importance of education for legal practice. Moreover, the recession of 2007-08 and the concomitant downturn in the economy—including in the legal services sector—combined with rising tuition costs to place a premium on law schools providing demonstrable value to their students. That value has been translated into the term “practice readiness,”<sup>14</sup> intended to reassure both students and employers that graduates are sufficiently prepared to begin practicing law following their professional licensure. Because experiential courses provide such relevant experience for law practice, they are in increasing demand.

In an era of tightening law school budgets, there is more than a little irony here. Clinical programs are often seen as expensive when compared to other law school courses, yet the increased demand for them has arrived during a time of decreasing resources.<sup>15</sup> Complicating this picture even further, any creative approaches to reconciling these countervailing pressures must meet a number of prevailing standards, most significantly, those recently promulgated by the ABA.

## 2. Increased Regulation by the ABA

New ABA Standards contribute to the growing importance of experiential education. In addition to defining experiential courses, the 2016 revisions to the ABA Standards mandate that all law students—beginning with the 2016-17 entering class—complete at least six credit hours

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LEGAL EDUCATION IN A CHANGING WORLD (Deborah Maranville, Lisa Radtke Bliss, Carolyn Wilkes Kaas, Antoinette Sedillo López, eds. 2015) (colloquially referred to as Best Practices 2.0).

<sup>14</sup> The term “practice readiness,” although in wide use, does not really capture the competence level of most graduating law students, even those who have received significant practical training and exposure to law practice. Jay Finkelstein has coined the term “practice awareness,” which seems closer to the mark, in that law students who have completed experiential courses have a better sense of the kinds of issues that arise in beginning legal careers, and some sense of how to resolve them, even if not at the level of proficiency that is connoted by the term practice-ready. See Jay Gary Finkelstein, *Practice in the Academy: Creating “Practice Aware” Graduates*, 64 J. LEGAL EDUC. 622 (2014-15).

<sup>15</sup> Professor Robert Kuehn has challenged the cost argument by demonstrating that guaranteeing clinical education to all students need not result in increased tuition costs. Robert R. Kuehn, *Pricing Clinical Legal Education*, 92 DENVER U. L. REV. 1 (2014).

of experiential courses.<sup>16</sup> Additionally, the new ABA Standards require law schools to adopt student learning outcomes that include competency in professional skills needed for competent and ethical participation as a member of the legal profession.<sup>17</sup> To meet new ABA requirements, law school faculties must identify, define, and then assess student attainment of the specific professional skills in which all graduates are required to show competence.<sup>18</sup> To a great extent, law students will learn these professional competencies through experiential courses.<sup>19</sup>

For a variety of reasons, including the ABA's new requirements, field placement programs have been undergoing change. In many law schools, these programs are expanding rapidly, to enable students to obtain not only the requisite six credits of experiential courses but also valuable experience in law practice settings and with prospective employers. At the same time, the ABA has required greater faculty supervision of externship courses and for the first time it has allowed students to work in externships for which they are paid.<sup>20</sup> Although most law schools employ an externship director (who usually reports to the experiential dean, if that position exists in the law school), in many schools it is the experiential dean who is guiding the

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<sup>16</sup> ABA Standard 303 (a)(3). At least one state bar has mandated that lawyers seeking admission to the bar have documented experience prior to admission. *See* New York State Bar Requirement: December 16, 2015, *available at* <http://www.courts.state.ny.us/ctapps/news/nottobar/nottobar121615.pdf> (last visited May 23, 2017).

<sup>17</sup> In addition to the learning outcomes ABA Standard 302 requires all law students to have—knowledge and understanding of substantive and procedural law; legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context; and exercise of proper professional and ethical responsibilities to clients and the legal system—Standard 302 (d) requires a law school to identify “other professional skills” in which competency will likely need to be demonstrated. Interpretation 302-1 provides that “For the purposes of Standard 302(d), other professional skills are determined by the law school and may include skills such as, interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation.”

<sup>18</sup> ABA Standard 315 (requiring ongoing evaluation of the law school's program of legal education, learning outcomes, and assessment methods, followed by curricular improvements based on the findings).

<sup>19</sup> Other experiences, such as co-curricular activities and employment, may also contribute to students' achievement of competencies.

<sup>20</sup> Many clinicians opposed paid externships as inimical to educational goals. *See, e.g.,* Clinical Legal Education Association, Comment on Interpretation 305-2 and the Question of Paid Externships in Law Schools, July 10, 2015, *available at* <http://cleaweb.org/resources/Documents/CLEA%20Comment%20on%20Proposed%20interpretation%20305-2.pdf> (last visited May 23, 2017) and AALS Section on Clinical Legal Education, Statement of Position on the Proposed Revisions to ABA Standards 304 and 305 Relating to Field Place [sic], January 27, 2016, *available at* <https://connect.aals.org/p/fo/st/post=36217#p36217> (last visited May 23, 2017).

faculty on how to implement changes to the experiential program, including the field placement program, that will comport with the ABA's new standards.

The combination of all of these dynamics has propelled legal education to focus on teaching students not only legal knowledge and analysis but also the skills and values of law practice. Recognizing that students learn in different ways and that traditional doctrinal courses, including those in the standard first-year curriculum, may be strengthened by the introduction of experiential pedagogy, many law schools are exposing students at an early stage to pedagogies for developing a broader set of legal skills and values. This development follows trends in other professions, such as medicine, which have started to introduce students in their first year to patients and to the realities of practice—much as in law school clinics—so they can understand how to begin using in professional practice what they are learning in the classroom.<sup>21</sup>

### **C. Why Have an Experiential Dean?**

The creation of experiential dean positions at a growing number of law schools<sup>22</sup> reflects the fact that law schools are finally linking the experiential curriculum, and the experiential faculty who teach in it, to the overall law school mission. Law schools are recognizing through these appointments that experiential courses and experiential pedagogy are an essential part of the curriculum. Experiential deans are needed to manage the experiential sectors of the curriculum and the faculty and to serve as part of the law school management team that oversees the implementation of the curriculum and the integration of experiential education into the overall law school program.

Law schools often tap experiential deans to assist or even lead the faculty's effort to comply with new ABA Standards. This responsibility may include ensuring that all students complete the required number of experiential units, that experiential courses comply with the ABA's definitions, and that a process is in place to adopt and assess learning outcomes

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<sup>21</sup> Earlier integration of patient contact into medical education is one of the recommendations of Molly Cooke, David M. Irby, and Bridget C. O'Brien, *EDUCATING PHYSICIANS: A CALL FOR REFORM OF MEDICAL SCHOOL AND RESIDENCY 221* (The Carnegie Foundation for the Advancement of Teaching 2010). *See also* Sabri Kemahli, *Clinical Teaching and OSCE in Pediatrics*, 6 (1) *MEDICAL EDUCATION ONLINE* 4531 (2001), available at <http://www.tandfonline.com/doi/pdf/10.3402/meo.v6i.4531?needAccess=true> (last visited May 23, 2017).

<sup>22</sup> As the survey responses indicated, experiential dean titles vary. For consistency, we will refer to all such deans as experiential deans or deans of experiential education.

pertaining to important professional competencies.<sup>23</sup> Experiential deans at many law schools are spearheading initiatives to figure out how to strengthen and diversify the curriculum by introducing students through existing or new courses to the skills and values needed for practice. They are working with the faculty as a whole to introduce simulations and other experiential pedagogy into non-experiential courses,<sup>24</sup> to oversee the transformation of first-year research and writing classes into lawyering programs, and to design new experiential courses.

Why create a new administrative position to supervise the development of experiential education? Law schools already have associate deans for academic affairs whose responsibilities typically include planning and implementation of the entire law school curriculum. Often, however, academic deans have not had a background in experiential teaching,<sup>25</sup> and may lack the knowledge or expertise to build and oversee an experiential curriculum and its faculty. In addition to the many other tasks required to develop experiential courses and programs, ensuring ongoing compliance with the new body of ABA Standards regulating experiential education involves considerable time and expertise, beyond that available to many academic deans with wide-ranging responsibilities. Moreover, an experiential dean can provide an important perspective on a law school's day-to-day operations and long-term planning, ensuring that an experiential voice is heard at meaningful strategic junctures. Once the necessary programmatic structures are in place, the work of the experiential dean continues in operating, evaluating, expanding, and readjusting newly established programs and practices, as well as presenting essential input on institutional objectives and strategies.

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<sup>23</sup> Many experiential deans have been leaders in the task of mapping the experiential curriculum and identifying curriculum gaps. When gaps are noted, the next step is to develop new courses or co-curricular activities to ensure sufficient opportunities for all students to learn experientially, achieve the law school's learning outcomes, and meet the ABA's experiential credit requirements. Such opportunities can include new simulation courses, externships, in-house clinics, hybrid programs, and other experiential modalities. For example, Peggy Maisel at Boston University School of Law chaired the faculty Outcomes and Assessment Committee that has led the faculty in identifying and establishing ways to assess both Professional Skills Outcomes and other Outcomes. Margaret Barry chaired the Curriculum Mapping Working Group at Vermont Law School. See Margaret Martin Barry, *Make it Worthwhile: Reflections on the Process of Identifying Outcomes and Mapping a Law School Curriculum*, 61 NYLS L. REV. \_\_\_ (forthcoming Fall 2017).

<sup>24</sup> There is no completely satisfactory term to describe non-experiential courses. Various, they have been called traditional courses, doctrinal courses, podium courses, and stand-up courses, among other terms.

<sup>25</sup> One of us—Dinerstein—was associate dean for academic affairs from 1997-2004, and there are other examples from around the country. But an experiential background is still a rarity among academic deans.

As Part II suggests, by assuming a wide variety of tasks and responsibilities, experiential deans can make positive contributions to the development of legal education while at the same time maintaining their role as teachers, scholars, and participants in the legal profession. How do they do all of these things? What challenges do they encounter? How do they feel about their positions and what they entail? We provide responses to these and other questions in the sections that follow.

## **II. Who We Are and What We Do: Developing a Broader Understanding of the Experiential Dean's Role**

### **A. Information-Gathering Method**

The conversation at our retreat helped the authors realize the added importance of developing a more thorough understanding of the experiential dean's role, its content, and its promise. To develop that understanding, and gain a more complete picture of the appointment, work, role, and accomplishments of experiential deans, we devised an instrument to survey the community of experiential administrators. The survey that we developed (attached as Appendix A) asked a series of questions that we found central to understanding the role of the experiential administrator.

Because there was no list of current experiential deans,<sup>26</sup> we reached out broadly, researching law school websites and sending a survey to the top experiential administrator at nearly every law school.<sup>27</sup> These were administrators holding various titles. After receiving survey responses from a significant percentage of these administrators, we identified three distinct categories of respondents from whose survey responses we might glean valuable data. These three categories were: 1) respondents with decanal titles (such as associate dean, vice

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<sup>26</sup> Developing the survey was a more efficient process than distributing it. Distributing it required identifying and contacting experiential administrators at law schools around the country so that we could ask them to take and return the survey. No comprehensive list of experiential administrators existed and the trend in the direction of creating such positions meant that any list would be outdated as soon as it was produced. This was complicated by the fact that schools denominated similar positions with different titles. For example, some schools are assigning directors of experiential education, and sometimes even clinic directors, with responsibilities for a large swath of the experiential education curriculum, which can encompass numerous programs and the faculty who teach in them. In our last recommendation, *see* p. 32 *infra*, we suggest the creation of an experiential dean's listserv (and AALS section) to facilitate discussion and information exchange within this group.

<sup>27</sup> A few law schools were excluded because at the time we circulated the survey there was no information that we could identify regarding an experiential administrator.

dean, or assistant dean) signifying that they had broad and varied responsibilities for experiential education; 2) respondents with experiential director titles, rather than “dean” titles; and 3) respondents with other titles—for example, “clinic director”—whose survey responses suggested that they nonetheless had been accorded wide-ranging responsibilities for experiential education in their law schools.

For purposes of this article, we have chosen to focus on the surveys returned by respondents in the first category—those with decanal titles in the law school’s experiential curriculum. While drawing lines is always difficult, line-drawing by title has the virtues of both simplicity and objectivity, as it obviates the need for judgment calls about inclusion and exclusion based on a substantive analysis of the responsibilities of the position as reported by the respondents. Drawing the line where we did was also consistent with our interest in analyzing the recent trend toward creating positions with titles that officially allocate decanal responsibility for the experiential education program at the law school.<sup>28</sup> In particular, we wished to assess the meaning of these decanal positions in law schools across the country and the nature and structure of the positions.

At the time the survey was distributed in Spring 2016, our research identified 56 recipients holding experiential dean titles.<sup>29</sup> From this group of 56, 47 experiential deans returned the survey, a response rate of nearly 84%. Therefore, we believe that the results of the survey provide a useful portrait of the experiential dean position as it is experienced by those who are currently holding, or have recently held, the position. Because law school structures, processes, and personnel do not remain static, we are aware that the list of respondents, and the information the respondents provided, represent a snapshot in time, but, at the very least, it is a reasonably accurate snapshot of experiential deaning in law schools in the Spring and Summer of 2016. We turn now to the picture that our survey returns reveal.

## **B. Appointment of the Experiential Dean**

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<sup>28</sup> As of April, 2017, we were able to identify 58 law schools that had created experiential dean positions. A list of these law school positions and their occupants is attached at Appendix B.

<sup>29</sup> The list of experiential deans provided in Appendix B is not co-extensive with the experiential deans who received our survey. Some new experiential deanships were created after our survey, some of those holding experiential dean positions at the time of our survey are no longer doing so, and some new experiential deans have assumed these posts.

## 1. Titles

We began our exploration of the role of the experiential dean in schools that have created these positions by asking respondents for their job titles. Titles alone can provide some insight into how schools conceive of an administrator's role and responsibilities.<sup>30</sup> As noted above, we learned that our decanal respondents hold a range of titles, serving as assistant dean, associate dean, vice dean, or simply dean. The substantive areas within their decanal jurisdictions, as signified by their titles, are Experiential Learning, Experiential Education, Clinical and Experiential Programs, Clinical Programs and Experiential Learning, or Clinical Education. Each aspect of the titles—level of deanship, degree of specificity, breadth of jurisdiction—hinted at the schools' expectations.

## 2. Contract Term

Nearly 95% of the experiential deans who responded to the survey hold faculty positions, largely on 12-month contracts. Almost half of them have faculty positions with traditional tenure. When clinical tenure is included, a majority of experiential deans are tenured faculty members. Virtually all of the remaining respondents have long-term contracts.<sup>31</sup>

Regardless of the type of faculty positions they hold, the vast majority of experiential deans receive additional compensation for their administrative responsibilities.<sup>32</sup> Many have teaching and service obligations accompanying their administrative responsibilities, and a majority have scholarship expectations as well.<sup>33</sup> More than half of the responding deans report that they are entitled to sabbaticals.

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<sup>30</sup> See Binny Miller, *Cultural Brokers in the Changing Landscape of Legal Education: Associate Deans for Experiential Education*, 2 J. EXPERIENTIAL LEARNING 98, 106 (Spring 2017) ("Titles matter because they often reveal something about status, and the interplay between different types of experiential education. Including the phrase 'experiential education' in a title suggests gravitas together with wide ranging responsibilities. To add the word 'clinic' to this title, for example, 'Associate Dean for Clinic and Experiential Education,' may suggest that clinics have a unique status among the many programs that comprise experiential education. In contrast, not including the word 'clinic' in a title may suggest that all forms of experiential education are on a level playing field.").

<sup>31</sup> In response to our question about faculty status, 21 respondents had tenure; five had clinical tenure; 18 had long-term contracts; and one had a short-term contract. Over half of the deans holding faculty positions are entitled to sabbaticals. Also, all but three of the deans hold twelve-, as opposed to nine-, month appointments.

<sup>32</sup> When asked whether additional compensation came with the decanal appointment, 42 responded that it did.

<sup>33</sup> When asked whether scholarship was expected, 25 responded in the affirmative.

### 3. Inaugural Position

Our survey results confirm that experiential deanships are relatively new law school posts. When we asked what year the experiential dean position was created in each respondent's institution, a large majority of the respondents indicated that the position was created within the past six years. A significant majority (34 out of 47) of the respondents stated that they are the first to hold the experiential dean position in their law school. Although for decades Georgetown University Law Center has had an Associate Dean for Clinical Education,<sup>34</sup> only a few experiential deanships appeared before the twentieth century's end. Survey results reveal that the trend to create experiential dean positions became prominent after 2011, with a noticeable spike in 2015.<sup>35</sup>

A vast majority of the respondents were appointed to their decanal positions from within their own institutions.<sup>36</sup> Indeed, only eight of the 47 respondents came to their experiential dean positions from other law schools. Although a small percentage of experiential deans were chosen by the faculty, frequently through national searches, most respondents were hired or appointed directly by the dean of the law school. Sometimes a vice dean or members of the faculty offered input to the dean, but the ultimate selection was by the dean in the great majority of law schools. Interestingly, and potentially problematically, over one-third of the respondents reported that the dean who initially approved their hiring or appointment is no longer in office.<sup>37</sup>

## C. Responsibilities

### 1. Job Descriptions

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<sup>34</sup> See Miller, *supra* note 30, at 104.

<sup>35</sup> Georgetown Law Center's clinical deanship in 1989 and the University of Michigan Law School's clinical deanship in 1996 covered only in-house clinical programs and not broader experiential offerings. Between 2010-11 and 2013-14, the number of law schools with associate deans overseeing clinics and externships (but not necessarily broader experiential courses such as simulations) increased from 30% to 47% of the 174 law schools responding to surveys from CSALE, the Center for the Study of Applied Legal Education. *Id.* at 105.

<sup>36</sup> The survey did not ask directly about the prior position held within the institution, but it was apparent from the responses that most respondents were serving as experiential faculty at their schools prior to assuming the deanship.

<sup>37</sup> Of the 47 respondents, 42 were hired by the law school dean; 16 of those 42 law schools now have a different dean.



Because most experiential deans hold newly created posts, we wondered whether law schools would have spent some time designing the position and considering its responsibilities within the contexts of individual institutions. We assumed that the responsibilities would be diverse and wide-ranging, but that the allocated tasks would be somewhat stable. Evidence from the surveys suggests that some of these assumptions were inaccurate.

We learned that a large majority (35 of 47) of the experiential deans had no formal job description. When we asked the twelve respondents who had job descriptions to provide them to us, we saw that fewer than half of the descriptions are of a detailed nature. The remaining descriptions are very brief, comprising only a few broadly worded sentences.

Most of the survey respondents indicated that they assumed the post of experiential dean after an informal, collaborative discussion about their duties with the dean of the law school. These discussions afforded several of the respondents significant input in constructing their own positions, and a few respondents indicated that they wrote their own job descriptions. More than 75% responded that the dean of the law school determined their duties. A few respondents stated that the associate dean or vice dean for academic affairs also participates with the dean in determining their responsibilities, a few more wrote that they determine their own responsibilities in consultation with the dean, and another specifically noted that the respondent was negotiating with the dean to gain greater clarity for a position that was not sufficiently defined. While three respondents had predecessors who were able to describe the position to them, this option was unavailable to the vast majority who were the inaugural holders of their posts.

## 2. Scope of Responsibilities as Experiential Deans

Although most of the responding deans do not have job descriptions, their answers to our survey questions about the nature and scope of their responsibilities provided helpful insight into their roles and responsibilities. Because tasks were more narrative than numerical, it was difficult to assign numbers to every task described. Instead, we provide below a description of the amalgam of responsibilities identified in the survey results.

Most respondents described broad responsibilities for all of the law schools' experiential programs, including clinics, simulation classes, and externships.<sup>38</sup> These responsibilities commonly included issues of hiring and staffing for new and existing programs, and the promotion and status of experiential faculty and staff.<sup>39</sup> For the full-time faculty who teach experiential courses, many experiential deans are responsible for leading or participating in search and appointment committees for new experiential faculty members; for the systems of experiential faculty mentoring, evaluation and promotion; and for experiential faculty development. Experiential deans often organize meetings of experiential faculty, approve experiential faculty travel and expenses, manage an experiential or clinical budget, and fundraise to support clinical fellows or the programmatic needs of the experiential curriculum. Together with the law school dean, experiential deans often evaluate the performance of the experiential faculty for purposes of salaries, stipends, or awards. Typically, experiential deans also address various kinds of student- or faculty-related issues or problems as they arise on a day-to-day basis in experiential education programs.

Many respondents also indicated that they are involved in creating new clinical experiences, including externship and simulation courses, based on new areas of student interest and employment. As a result, experiential programs have grown in both size and scope over the past ten years. Experiential deans oversee the growth of clinics, either as director of the clinical program or in collaboration with that faculty member, and some have responsibility for identifying where new clinics and other experiential courses may be needed. Over time, clinical programs have altered their primary focus on litigation and general civil and criminal law to encompass new clinics in such areas as transactional law, entrepreneurship, and community development, as well as other specialized clinics in immigration, human trafficking, disability rights, legislation, international human rights, environmental law, and many other areas.

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<sup>38</sup> A number of the experiential deans are also directing a clinic or externship program. This arrangement is most common among those who had been directing these particular programs at their law schools before being elevated internally to the experiential deanship.

<sup>39</sup> Most experiential deans have oversight responsibilities for both the full-time faculty and the part-time faculty who teach in-house clinics, externships, and simulation courses. These responsibilities may include hiring, managing, and evaluating the faculty who teach these courses.

Many respondents stated that they are also in charge of additional programs or institutional objectives, such as pro bono programs, legal writing programs, moot court, post-graduate incubator programs, fellows' programs, and working with non-clinical faculty to expand experiential teaching. These responsibilities also may entail coordinating and sequencing experiential offerings, integrating them with other law school offerings, and forging a cohesive curriculum. As noted above, some of the deans indicated that they are actively engaged, or had leadership roles, in their schools' student learning outcomes and assessment efforts.<sup>40</sup>

The survey responses suggest that the experiential dean's programmatic responsibilities typically involve planning and oversight, often including management of budgets, grants, and personnel. Over 80% of respondents report that they have authority over budgets for the range of programs they oversee. Responses to the surveys also reveal that a number of experiential deans have significant responsibilities for regulatory compliance, which can include monitoring and maintaining law office practices that meet professional ethical norms. For example, experiential deans may need to work with university technology professionals and/or general counsel in setting up computer networks and archiving systems that maintain the confidentiality of client records. As discussed in Part I, the responsibility of experiential deans for regulatory compliance has only increased in recent years as the ABA, and some state bars, have promulgated new accreditation and admission standards regarding experiential education and pro bono service.<sup>41</sup>

Other reported duties, sometimes under-recognized but time-consuming nonetheless, involve the experiential dean as the spokesperson on experiential learning to the law school's—and sometimes the university's—students, staff, faculty, administration, committees, departments, media, and alumni. The experiential dean also serves as the experiential program's public voice for a variety of external and community constituencies. These constituencies are

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<sup>40</sup> See *supra* note 23 and accompanying text.

<sup>41</sup> With the ABA's new requirement of six credit hours of experiential courses, most law schools need to grow their experiential curricula to provide all students with sufficient opportunities to meet the requirement. Law schools also must consider the sequencing of courses that makes the most sense for student learning. Experiential deans are often responsible for particular initiatives like these, and for generally determining how their law schools will meet the new ABA requirement. In addition, because state bar admission rules in New York require certification of practice experience, experiential deans are often involved in making sure that students who seek New York bar admission can meet the bar's certification requirement. See *supra* note 16. Furthermore, regional accreditation standards for higher education establish parallel expectations for law schools that are replete with references to experiential learning and outcomes.

both academic and professional, and they may operate at the local, regional, or national level, giving the experiential dean leadership roles in various organizational venues that interact with and support experiential education, lawyering, policymaking, and advocacy.

In assuming these responsibilities, experiential deans must frequently collaborate with a range of other constituencies. These collaborations reportedly entail working with: 1) communications and marketing departments to produce websites and promotional literature related to the law school's experiential programs; 2) admissions offices to promote experiential programs to prospective students; 3) career services offices to cultivate connections between lawyering programs and job placement initiatives; 4) development offices to encourage donations to the experiential program, which is often popular among potential benefactors; and 5) various university departments to promote strategic and interdisciplinary initiatives that intersect with the teaching and lawyering in the law school's experiential programs. As experiential programs expand, the tendency is to add new tasks to the experiential dean's list.

### 3. Scope of Responsibilities as Faculty Members

Because almost all experiential deans hold faculty positions within their law schools, they also have responsibilities that attend faculty positions. Most experiential deans continue to teach. They may have a smaller load in terms of the number of students they teach in a clinic or the number of courses they teach in a year, but for many experiential deans their teaching load remains a major time commitment that may supersede their management or administrative duties.<sup>42</sup>

Beyond teaching responsibilities, most experiential deans—whether on a traditional tenure track, a clinical tenure track, or a long-term contract track—maintain scholarship responsibilities without extended periods of time to devote to research and writing. Experiential dean positions are normally positions with twelve-month contracts, eliminating extended stretches during summers or vacations to immerse oneself in writing. Yet many experiential deans try to remain active scholars. Given their expertise and level of experience, their

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<sup>42</sup> Particularly for deans involved in clinical teaching, it is difficult to control the time demands of a client or a clinical case that may have deadlines imposed by a court, opposing counsel, or the law. A number of experiential deans have therefore moved to teaching simulation, classroom, or externship courses because such courses allow them to assume a more controlled schedule.

continued production of legal scholarship is important to the development of the field of experiential education.

Finally, experiential deans maintain responsibility for service to the law school, the university, and the profession. As senior faculty members, they often serve the law school and the university in recruiting new students, working with alumni, or chairing and serving on faculty and university committees. Experiential deans may assume responsibility for organizing major events and conferences involving public interest law or legal education. They are often the people assuring that events in the experiential programs are communicated to the wider community through newsletters, social media, blogs, and other communication vehicles.

Beyond the law school and the university, experiential deans often make substantial contributions as members of local, state, and national bar associations, as well as in international organizations. On issues of access to justice, public interest law, and experiential legal education, experiential deans often join the dean as the face of the law school. Because most experiential deans have backgrounds as clinical teachers, they often play leading roles in their communities in promoting access to justice and addressing issues involving the legal needs of low-income and under-represented people. They frequently are asked to serve on the boards of organizations or on committees that advocate for poor people, people of color, and other marginalized groups. Depending on their areas of expertise, they may be involved in reform efforts, such as criminal justice reform or court reform, designed to increase access to justice for everyone in the community.

#### 4. Evolution of Responsibilities

Almost half of the respondents described an evolution in the original understanding of the responsibilities of their deanship. Thirteen respondents indicated that that they are doing more than originally planned (*e.g.*, “Stuff just gets added on!”); two said they are doing less; and six described altered, not expanded, responsibilities due to changes in the law school’s priorities. Two respondents described their duties as “evolving,” and two others stated a concern that the scope of their work remains unclear.<sup>43</sup> A few respondents reported that their roles decreased due

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<sup>43</sup> We sought to determine whether being appointed from within rather than outside of their own institutions, resulted in improved understanding and informed negotiations about the scope of respondents’ deanship

to pushback from faculty, particularly those under their supervision, and to the law school administration's lack of commitment to their decanal role.

## **D. Institutional Role and Support**

### **1. Institutional Role**

Through the survey, we also sought a better understanding of how experiential deanships sit in the administrative structure of the law school. What emerged from our survey results is a sense that experiential deanships are lodged centrally—by actual practice if not by advance decision—in the administrative structures of their institutions. This structure is likely attributable to the increasing need for experiential expertise in the management of the law school program.

When asked whether the respondents are considered part of their dean's management team, virtually all of them indicated that they are, while only a few wrote that they are not. When asked how their positions fit in the organizational chart of their institutions, 17 respondents, some—but not all—of whom stated that they are part of the dean's management team, described themselves as reporting directly to their dean. A high percentage of these respondents stated that they report to the dean at least once a month. Another 17 respondents report being at the mid-level or inner circle of decanal management, part of the management team of the associate dean or vice dean for academic affairs. Ten respondents said that they work directly with the associate or vice dean and two said that they report to him or her.<sup>44</sup>

More than one-half of the respondents wrote that they are evaluated in their positions, usually annually, and by the dean. On the other hand, 15 experiential deans report that they are not evaluated in their positions. A handful stated they are not clear on how they are to be evaluated, if at all. This range of responses may reflect as much about different administrative

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responsibilities. Unfortunately, answers to these questions did not emerge, as we were unable to identify patterns or correlations of either sort from the responses we received.

<sup>44</sup> Almost all of the respondents describe their placement on their school's governance chart in terms such as, "one of several associate deans;" "same as other associate deans;" or "3rd behind dean and associate dean for academic affairs," indicating a strong contribution to the governance of their law schools. There were a few counterexamples, however. A few respondents described their status as a simple "faculty appointment," or indicated that they were not equal to the other associate deans in terms of salary or stipend.

cultures and leadership styles within law schools as it does about how the roles of experiential deans are being conceived.

Yet even within a single institution, leadership styles and administrative cultures do not remain static. As stated above, the law schools of more than one-third of the respondents (16 of 47) had already changed deans during the respondents' appointments as experiential deans. The change of deans required many of the respondents to renegotiate their roles anew because the new deans did not always accept the respondents' roles as previously developed.

## 2. Institutional Support

To our surprise in this era of dwindling resources, almost 75% (35 out of 47) of the respondents indicated that they have the support they need to carry out their responsibilities as experiential deans. When asked about the kind of support necessary, 30 respondents identified the importance of adequate administrative staffing. Respondents' survey answers also underscored the importance of a supportive and respectful dean and faculty who are educated about experiential learning programs and needs. Several times, the survey responses mentioned the need for budgetary and funding support. Additional areas in which respondents detailed the need for support include course relief, training for the position, and clarity in role/authority/responsibility.

Notably, seven experiential deans indicated that they have asked for but not received certain types of support for their work. Six of the seven specifically called for further administrative assistance; two of the seven asked for further structural clarity. Some experiential deans have also requested but not received their own budgets. In the process of articulating these unfulfilled requests, it was noted that these and other problems arise when the dean and the faculty do not share the same goals.

The survey also asked respondents to list their primary challenges. Most frequently mentioned were the challenges of inadequate budgets and program funding (12), inadequate time to accomplish the work of the position (10), and faculty resistance to experiential education (9). Additional challenges they mentioned were the need for more administrative help, concerns regarding sustainability of the position, a lack of clarity in their institutional role and authority of the position (including the absence of tenure for the position), and inadequate institutional support and vision.

The last question on the survey asked respondents to articulate how they felt about their position, and whether it has been what they expected. Despite the above-listed concerns, the majority of respondents are enthusiastic about their positions. While they acknowledge the high volume of work, they also appreciate the essential nature of the work in furthering experiential education, as well as the opportunities for leadership and creativity that the positions provide them within their institutions.

## **E. Accomplishments**

As seen above, the survey responses show a broad scope of responsibilities for experiential deans. When we asked these deans, “What do you believe are your primary accomplishments in this position?” some deans answered at length. Several patterns emerge from the responses.

### **1. Curriculum Development**

About one-half of the respondents cited starting new clinics, developing new externships, expanding experiential course offerings, and establishing new 1L experiential courses as major accomplishments. At several schools the experiential deans led the faculty’s effort to institute a requirement for all students to take experiential courses. For example, one law school chose to require 15 units of experiential coursework and another school required six credits to be earned through either a clinic or an externship.

Now that the ABA has required six credits of experiential courses for all law students, it is not just in the examples above that the experiential dean would need to develop the experiential curriculum to assure that every student can attain the required credit hour levels. Indeed, nearly one-third of respondents listed creating new clinics or expanding current ones as among their chief accomplishments. Some wrote of creating clinics in more recent clinical fields, such as transactional law, or creating new clinics specifically designed for evening students. Experiential deans reported establishing new clinical programs for LL.M. students, capstone semesters-in-practice for 3L students, and incubators or residency programs for new law graduates. For the most part, these expansions occurred during a time when law schools were experiencing a palpable decline in resources.



Several experiential deans helped bring experiential education into the first-year curriculum, establishing new 1L experiential programs. Examples included moving live-client experiences into the 1L legal practice program, such as establishing a 1L clinic where students conduct administrative hearings. Other examples involved adding an experiential unit to the first-year legal writing course, helping to establish a 1L Lawyering Program, and infusing experiential learning throughout the 1L year.

Another area of achievement in curriculum development occurred in externship programs. Many law schools are expanding externship programs, both to accommodate experiential learning requirements and to provide students with additional job-related educational opportunities. A number of survey respondents wrote of creating new externship programs, including semester-in-practice programs and hybrid clinics with external placement programs.<sup>45</sup> Many respondents reported overseeing the transformation of the externship program to comport with recent best practices and new ABA standards. Others described their achievements in improving the administrative coordination for, and communication about, law school externship opportunities.

## 2. Bridging the Gap Within and Between Experiential and Other Faculty

A common theme of reported accomplishments was improving the communication and collaboration between experiential faculty and other law school faculty and administrators. For example, a number of experiential deans reported building bridges with classroom faculty by facilitating both teaching partnerships and greater acceptance of experiential learning as a core curriculum component. Other survey responses mentioned creating collaborations between clinicians, legal writing instructors, and trial advocacy instructors; improving communication between the dean and the clinical faculty; and improving communication with the academic dean, including more clearly allocating responsibilities between them. A number of respondents wrote about improving coordination across various experiential programs by holding group meetings for experiential faculty, stimulating discussion among clinicians about clinical

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<sup>45</sup> The Alliance for Experiential Learning in Law defines a hybrid clinical education course as “a law clinic that incorporates elements of an externship course by immersing students in a working law office, while involving both faculty and non-faculty practitioners in supervision, mentoring, and teaching.” *Experience the Future supra* note 9 at 21.

pedagogy and design issues, and assisting non-clinical faculty with understanding and developing experiential teaching techniques.

### 3. Improved Management of Experiential and Clinical Programs

Several experiential deans listed their major accomplishment as leading the hiring of exceptional new experiential colleagues, including faculty members who added diversity. Others spoke of their work in improving the application process for enrollment in clinics and the design of the orientation program for new clinic students. Several respondents wrote of organizing previously balkanized or conflicted offices into more coherent and unified clinical programs. Several people started clinical fellows programs. Several stated that they had improved various policies in their experiential programs (e.g. policies covering things like provision of interpreter services to clients, maintenance and archiving of case files, entering retainer agreements, etc.) or created needed policies where none existed, thereby bringing their experiential program into compliance with best professional practices, local bar requirements, and ABA standards. Others wrote of moving clinical programs to a consolidated budget, adopting a new practice management system, and generally professionalizing the day-to-day operations of the clinical program.

### 4. Raising the Profile of Experiential Education and Experiential Faculty

Raising the profile of experiential faculty and programs—both within the law school and with a number of outside constituencies—was another area of major reported accomplishment. Internally, experiential deans wrote about elevating the status of clinical faculty, incorporating the clinical faculty into the regular sabbatical and summer writing grant programs, and moving closer to equalizing non-tenure track clinical faculty positions and tenured faculty positions. A few respondents wrote about increasing the classroom faculty's awareness of experiential teaching methods and helping students understand the importance of clinical education in their professional development.

A corollary of raising the profile of experiential education within the law school was raising its profile in many ways outside the law school. Some experiential deans identified accomplishments in launching clinic newsletters and other informational and promotional materials, including social media platforms. Several wrote about cultivating strong

collaborations with local legal service providers and other community programs to address community needs. This work enabled the experiential dean, in some instances, to understand his or her role as providing a strong voice for social justice in the community and for engaging students in considering the professional importance of, and professional means for, advancing social justice aims.

## 5. Summary of Accomplishments

Every experiential dean cited specific and major accomplishments in the areas of program management and curriculum development. These accomplishments included developing many kinds of collaborations. They also included maintaining and raising the profile of experiential education internally and externally through various kinds of outreach efforts.

Several experiential deans referred to their jobs as extremely demanding, such that a listed accomplishment was, for example, “not losing [one’s] mind.” They mentioned the difficulty of increasing student involvement in experiential education in an era of decreasing budgets and retiring faculty, and indicated that a key responsibility of the experiential dean was holding the line on standards of quality for clinical and experiential programs. Collectively, the survey responses supported a conclusion that experiential deans are enhancing the breadth and quality of experiential education, providing support for experiential faculty, better integrating experiential programs into the law school curriculum, and developing wider and deeper understanding of the contributions of experiential programs to legal education and the pursuit of social justice.

## **III. Recommendations**

Despite meaningful accomplishments and positive feelings about their jobs, a number of respondents to our survey raised concerns and tensions associated with their work. These challenges tended to cluster around particular themes. Some of the themes related to lack of clarity about their positions, their decanal authority, and their role in the law school’s governance structure. Other concerns emerged that are related to the workload and the support provided to experiential deans, such as the following lament: “What I’ve been doing these past few years is not sustainable, but there is progress making the journey rewarding.”

This section posits possible sources of the challenges raised and offers thoughts as to possible resolutions. The survey data lead us to suggest that many of the tensions may be reduced by: 1) a clear statement of the experiential dean's job, including attention to making the experiential dean's workload manageable; 2) a clear description of the experiential dean's role in the governance structure of the law school; and 3) efforts to provide sufficient levels of support to enable the experiential dean to fulfill his or her decanal responsibilities.

Before we turn to these specific recommendations, we note that the descriptions of accomplishments contained in the experiential deans' survey responses lead us to recommend at the outset that, if they have not done so already, law schools should create and maintain a position for an experiential dean. It is hard to imagine that many of the contributions reported by experiential deans would be made as effectively, if at all, in the absence of their positions. With the growing importance of experiential education in the legal curriculum, law schools should facilitate through their structural design the responsible development and management of a cohesive experiential curriculum. Ideally this development will include the appointment of a faculty member with an extensive background in experiential education to a decanal position for overseeing and promoting the development of the experiential curriculum and the experiential faculty. With this recommendation as a foundational starting premise, we draw from our survey responses to set out a number of additional structural recommendations for the experiential dean position. These recommendations are as follows:

1. Law schools should adopt a clear statement of the experiential dean's position, including attention to making the experiential dean's workload manageable

The survey responses confirm that ill-defined jobs are a source of stress and increase the challenges faced by some experiential deans. The job can become a catch-all for everything touching upon experiential work, and thus become unmanageable. When tasks and authority are unclear, the position can easily be misunderstood, or even undermined, by deans or faculty. This lack of clarity can raise difficulties for any experiential dean, and particularly for the handful of deans hired from outside the law schools in which they serve, as they are unlikely to have had deep familiarity with the institutional culture they entered.

If under-conceptualized, the experiential dean position is likely to change with personnel transitions, especially in the law school deanship, potentially destabilizing experiential learning

in the institution. What becomes apparent from reviewing the job descriptions that respondents supplied is that some schools are more explicit than others in setting out expectations about the responsibilities of the experiential dean. However, most schools have been content to leave the range of responsibilities implicit. For example, while a couple of the decanal job descriptions specify that teaching one or more courses is expected, that expectation appears to be more widely held than officially noted. Although the widespread under-specification of job responsibilities allows for individual negotiation and change, the surveys suggest that they can also generate significant difficulties for experiential deans to navigate.

Because the experiential dean position is new in the vast majority of law schools that have adopted it, it is likely that law school deans and faculties who are creating these positions are inclined more to generality than specificity, as they are waiting to see how the position evolves with the needs of the institution. We appreciate the inclination to shape the experiential dean's position through a collaborative and flexible process; however, our survey also identifies a need to provide further definition and structure. The goals of doing so are to obviate misunderstandings, uncertainty about role and jurisdiction, and the possibility of an overwhelming workload, while at the same time allowing for enough flexibility to address institutional needs as they develop.

While no law school administrative position is immune to structural adjustments, experiential deanships reflect a recent intention to align experiential learning with the rest of legal education in a meaningful way. The role need not be standardized, but its intended contribution to the progress of legal education can be impeded if its purpose and scope are unclear and under-conceptualized. A fuller and deeper understanding of expectations for the position would facilitate achievement of its intended contributions.

In service of this end, it is important to consider the value of a detailed job description for experiential deans.<sup>46</sup> Providing greater clarity about the experiential dean's responsibilities

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<sup>46</sup> We note that the lack of job or position descriptions for experiential deans is not unique to these deanships. In response to a query sent to the associate and assistant law school deans' listserv, [LEAP-Associate-Deans@Mail.Americanbar.org](mailto:LEAP-Associate-Deans@Mail.Americanbar.org), on April 19, 2017, nine of twenty respondents reported they had no job descriptions. Of the eleven with job descriptions, one reported that his job description was not used in a meaningful way; one stated that his job description was to "maintain the responsibilities of the dean"; and one had been in the decanal position for some time but only recently had been provided with a position description. Results of this survey are on file with the authors.

enhances the stability and sustainability of the position. As importantly, the process of delineating tasks and roles educates the administration and the faculty as to the work of an experiential dean and clarifies processes for administrative decision-making. This improved understanding of substance and process is likely to lead to smoother functioning in the administration of the law school's experiential programs.

To implement these goals and navigate possible pitfalls, we draw the following conclusions from our survey results: First, the range of expected responsibilities for the experiential dean position should be made explicit, and should take into account the needs of the law school as well as the interests, time, and talents of the person assuming the post. Second, all stakeholders within the law school should be made aware of these responsibilities and the reasons for assigning them. These can be communicated throughout the hiring or appointment process, preferably by including the distribution of a job description that clarifies the experiential dean's responsibilities and authority. The specific responsibilities of the role and its distinction from the roles of other deans should be communicated clearly to all relevant stakeholders, such as the faculty, staff, administration of the law school and the university, and law school and university boards.

For a job description itself, we make the following structural suggestions:

1) The experiential dean should be a faculty member with tenure or an appointment that is its equivalent in terms of governance and security. An experiential dean who is not a faculty member with tenure or its equivalent may encounter problems achieving objectives, unless his or her authority is clearly delineated, supported by the administration, and widely accepted.

2) If there are expectations concerning a term of years for the experiential dean position, these expectations should be stated, along with expectations for a process to select a successor.

3) Specific programmatic expectations should be articulated along with job responsibilities. For example, if the law school is seeking to expand experiential programs, it is important to discuss with the new experiential dean specific ideas regarding a timetable and process for expansion.

4) Specific expectations for teaching and scholarship—including eligibility and a timetable for sabbatical leave—should be articulated.

5) The job description should clarify the process for providing feedback and evaluating the experiential dean's performance—when is it done, by whom, according to what process, and with what implications for salary and benefits?

6) The experiential dean should have a budget adequate for executing his or her administrative responsibilities, and should exercise budgetary authority over expenditures in the experiential program.

We have attached, as Appendix C, an outline of possible core functions of the experiential dean position. Because it would likely be impossible for one person to satisfy all of the functions listed, we recommend that law schools choose priorities among available options, weighing them against other duties of the position, such as teaching, scholarship, and service. In many circumstances, it would be beneficial to incorporate these customized priorities into a written job description.

2. Law schools should adopt a clear description of the experiential dean's role in the governance structure of the law school

The role of the experiential dean in the law school's administrative structure—and the lines of authority within which the experiential dean exercises discretion over experiential matters—should be clear. The creation of these new decanal positions suggests a decision to pay greater attention to how experiential learning relates to and enhances the law school's overall curriculum. These deanships establish authority at a high level within law school administrations to meet that goal. Where the scope of the administrative responsibilities is tacit or otherwise ill-defined, the institutional goals they reflect can be more difficult to achieve.

The results of our survey illuminate the laudable intentions of deans and faculties in creating experiential dean positions, while suggesting that the implementation of these intentions deserves greater deliberation and planning. If the dean largely controls the hiring process and largely defines the experiential dean's position through informal discussions, a failure to communicate the contours of the position throughout the institution—or a transition in who holds the law school deanship—can unsettle and possibly alter the experiential dean position. Though most experiential deans state that they have senior management roles within the highest levels of the administrative structures of their schools, the novelty of the position and the absence of clear

descriptions of respective administrative roles can create internal confusion and at times resentment. These possibilities were reflected in some of the comments made on the survey, such as, “The position was created with great intention; however, the power structure does not provide for great change.”

Fulfilling expectations of the experiential dean’s role requires clarity about responsibilities, authority, and place in the larger governance structure. Even where the experiential dean is selected by the dean, we suggest the inclusion of faculty in the hiring process, both to increase institutional awareness of the position’s responsibilities and to help reach a shared understanding of the position’s authority and role in law school governance. For example, given the overlap in potential curricular responsibilities, it is important for the dean, the academic dean, and the faculty to understand and respect the particular role and authority of the experiential dean.

For the experiential dean to function effectively, the nature of the hierarchy and the authority of the position must be clear to all. Imprecision can frustrate possibilities for developing a coherent experiential vision for the school. Therefore, we recommend that law schools consider incorporating the role in the governance structure that we describe for the experiential dean into both a job description and the law school’s rules of operation.

To further establish the position in the law school administrative structure, we suggest that ideally the experiential dean will report directly to the dean. This structure allows the experiential dean to share with the dean the goals for, and the challenges in, effectively supporting and developing the school’s experiential program and to engage in an exchange that places these goals and challenges in the appropriate institutional context. The experiential dean should have authority equal to other associate deans. To the extent that the dean has managerial meetings with other senior deans, the experiential dean should be a member of that core group. To preserve the appropriate level of feedback and assessment, the dean will generally be in the best position to evaluate the work of the experiential dean, and therefore in most law schools, the dean should assume this responsibility.

3. Law schools should provide sufficient levels of support to enable the experiential dean to fulfill his or her decanal responsibilities



The last survey question asked respondents to indicate how they feel about their position and whether it is what they expected. While the question prompted some respondents to express concerns in considerable detail, others provided very short, sometimes ambiguous responses. (e.g., “not sure;” “don’t know;” and “choose not to answer”). The shorter responses may reflect a hesitancy to write down negative reactions, a lack of experience in the position, or a tendency to reserve judgment. For those who provided fuller responses, a repeated theme is the tension between their aspirations for enhancing their institutions’ experiential programs and a lack of sufficient resources. Although many respondents also express a sense of overwork, a number of them state that they have not asked for additional resources. This seeming contradiction may be grounded in recognition of the financial constraints of the times or a reluctance to appear too demanding when occupying a relatively uncertain or precarious role in the governance structure.

Another theme worth noting is the stress and isolation that a number of respondents report. Some of the isolation is relative to other clinical and experiential colleagues who may have difficulty accepting programmatic evolution or another level of administrative hierarchy. Not all of the types of institutional change in process and pedagogy that the experiential dean may promote are welcomed by every experiential faculty member, especially those who have operated in the existing institutional environment for many years. In other situations, the isolation is relative to non-clinical faculty and deans who do not have a deep understanding of the pedagogy of experiential education, its internal and external needs and realities, the types of change that an experiential dean can foster, and the kinds of structural support that facilitate the dean’s work in doing so.

Among the types of outside support that a noticeable percentage of the respondents suggest is more data and discussion of the experiential dean position among relevant stakeholders. It is important for law schools to pay heed to this theme. While it is understandable that a newly designed position is still a work-in-progress, for the position to evolve constructively, law schools must begin to confront collectively the types of challenges that our survey respondents raised.

With this in mind, we suggest creation of a listserv and an AALS section for experiential deans. Additional suggestions come from a session that some of the authors conducted at the

2017 AALS Clinical and Experiential Law Program Directors Workshop.<sup>47</sup> These suggestions include: a working group to develop a set of best practices, or “good” practices, for the position; an online repository of documents, such as job descriptions, sample governance models, and adjunct faculty training materials; management training; regional meetings of experiential deans; and mentors for specific topics, such as workloads, governance issues, and pay structures. Further comments were offered about the need to have a listserv for all experiential administrators, not just deans. Steps like these may serve as vehicles to reduce isolation and to further explore the findings and recommendations developed in this article.

#### **IV. Conclusion**

Surveys of experiential deans describe the important contributions to law school administration and legal education that experiential deans are making. They are integrating experiential pedagogy into the overall curriculum, creating new experiential offerings, managing experiential faculty, and participating, often in leadership roles, in law school efforts to adopt and assess student learning outcomes. They are intimately involved in curricular and program development and in supervising and supporting other experiential faculty.

Most experiential deans are core members of the dean’s administration. With the associate dean for academic affairs and perhaps an associate dean for scholarship or faculty development, experiential deans have become key faculty members on the dean’s leadership team, adding their expertise and voice to both the law school’s long-range planning and its day-to-day administration. As a result, in many law schools experiential educators now appear to have a seat at the table when important law school decisions are made about allocation of resources, development of law school programs, coordination with other offices such as admissions and career development, the development of communication and marketing strategies, and many other institutional judgments.

Despite the increasing inclusion of experiential deans in the administrative structures of law schools, the role of the experiential dean is still in the process of development. Helpful evolution of the position will come through greater attention to the nature of the role, the set of

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<sup>47</sup> Three of the five authors presented a session for experiential administrators at the 2017 AALS Clinical and Experiential Law Program Directors Workshop, Denver, CO, May 5-6, 2017. At the conclusion of the session, participants were invited to write any suggestions they had regarding the experiential administrator position. These suggestions were recorded on notecards and collected by the authors. The additional suggestions listed here are a compilation of the suggestions collected (on file with authors).

responsibilities assigned to the position, the support it requires, and its potential to support innovations increasingly vital to the future of legal education. Drawing on the survey data we collected from experiential deans around the country, we have developed a number of institutional recommendations. These include increasing the clarity of the experiential dean's role by articulating institutional expectations and making explicit the position's responsibilities and its place in the law school's governance structure. We also recommend that law schools provide sufficient support to experiential deans to enable them to fulfill these responsibilities, and note that law school support can be supplemented by mechanisms for building connections between experiential deans, enabling them to help one another refine the role and its contributions to the law school's educational and public service missions.

These are times of change in law schools, and increased attention to experiential education represents a part of the changing landscape. Experiential deans will play a central role in facilitating positive change in legal education in general. The role does not need to be standardized, but to have the impact it should have on the development of legal education, its responsibilities do need to be explicitly stated, widely understood, and institutionally supported.<sup>48</sup>

The proposals that we make here are designed to promote institutional efforts toward greater definition of the position of experiential dean and the development of structures and processes to promote its effectiveness. These efforts begin with awareness, information, and shared experience – foundational to the clinic method we espouse—and build toward institutional actions responsive to the information that we are able to collect, analyze, and distribute to one another. Through this collaborative process we hope to participate responsibly in the construction of legal education's future as it adapts to a world that is in the process of transformation as well.

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<sup>48</sup> See Maranville et al., *supra* note 13, at 431 (“A law school that chooses to appoint an Associate Dean of Experiential Education should be clear about what it wants the individual to accomplish. The contours of this role may evolve as those who assume this responsibility reflect on the success of different initiatives, compare notes, and identify a path for the future.”).

**Appendix A, Survey**

**Appendix B, List of Law School Experiential Deans as of April, 2017**

**Appendix C, Structural Considerations for the Experiential Dean Position**

## **Appendix A**

### **Survey of Associate Deans for Experiential Education**

Name \_\_\_\_\_

Law School \_\_\_\_\_

\*You may skip identifying information if you choose.

1. State your formal title(s).
2. Do you have a formal job description? If so, please attach it.
3. What year was your position created?
4. Is it a faculty position with tenure or some other status? If other, please specify.
5. Are you the first person who has occupied this position? If not, how many others have held it?
6. Were you on the faculty of your current school prior to taking the position? If so, in what capacity? If you held a position elsewhere prior to taking your current position, please state your prior position and institution.
7. Are you expected to serve in your position over the summer/for 12 months?
8. Are you entitled to sabbatical or other leaves while serving in the position?
9. Is the position for a fixed term? If so, what is the term?
10. Do you receive additional compensation for this position? If so, was that additional compensation pursuant to a formula (for example, 2/9 base salary to reflect summer obligations)?
11. What are the nature and scope of your responsibilities? Who determines them? Have these responsibilities changed over time? If so, how, and why?
12. To whom do you report? How often?
13. Do you have authority over and responsibility for managing a budget? If so, what items are included within that budget (e.g., administrative personnel, office expenses, etc.)?
14. What are your teaching responsibilities?

15. Are you expected to produce legal scholarship while serving in this position?
16. What are your additional service roles, including committee work, within the law school and the university?
17. Are you also the director of the in-house clinical program? Externships? Other experiential programs? If not, do these other directors report to you?
18. What are your primary goals in the position and what do you believe are your primary accomplishments in the position?
19. What are your primary challenges in the position?
20. What is your understanding of why your position was created?
21. By what process was the position created and by what process were you hired?
22. If you were hired by a Dean (either with or without faculty consultation or approval), is the Dean who hired you still in office? If not, has the nature of your position or the Dean's (or law school's) expectations for the position changed? How?
23. How were these responsibilities and expectations communicated to you?
24. Formally (from an organizational chart perspective) and informally, how does your position relate to other positions in the law school?
25. Are you considered a part of the law school dean's management team? If so, what does membership on that team entail?
26. Do you have responsibilities external to the law school—in the community, among alumni, in the AALS or ABA, etc.?
27. Are you evaluated in your position? By whom and by what process?
28. What kind of support do you believe you need to perform your job effectively? Do you have that support? Have you requested additional support that you haven't received? What type of support outside of the law school would be useful to you?
29. How long do you expect to stay in the current position? Do you expect your school to continue the position after you leave?
30. How do you feel about your position? Has it been what you expected?

